

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-301-W - ORDER NO. 93-149
FEBRUARY 10, 1993

IN RE: Application of Heater Utilities,) ORDER DENYING
Inc. for Approval of Adjustments) REHEARING AND
in its Rates and Charges for Water) RECONSIDERATION
Service.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing and Reconsideration of Order No. 92-1062 filed by Heater Utilities, Inc. (Heater or the Company) on January 25, 1993. For the reasons delineated below, the Petition must be denied.

Heater sets forth three arguments in favor of this Commission granting it a rehearing and reconsideration of our original rate order in this matter. First, Heater alleges that the Commission erred in failing to set a reasonable operating margin or a return on rate base. Second, Heater stated that it believed that the Commission erred by refusing to apply the requested rate base methodology for setting rates in this proceeding. Third, Heater alleged that the Commission erred in denying the entire rate increase in all the Company's service areas based upon the testimony of fourteen customers and a member of the House of Representatives.

First, with regard to Heater's allegation that the Commission

erred in failing to set a reasonable operating margin or return on rate base, the Commission believes that this is a matter solely within the province of the Commission. Determination of a fair operating margin is peculiarly within the province of the Public Service Commission, and cannot be set aside in an absence of showing that the determination was unsupported by substantial evidence in the record. Seabrook Island Property Association v. South Carolina Public Service Commission, 303 S.C. 493, 401 S.E.2d 672 (1991).

It is incumbent upon the Public Service Commission to approve rates which are just and reasonable, not only producing revenues and an operating margin within a reasonable range, but which also distribute fairly the revenue requirements, considering the price at which the Company's service is rendered and the quality of that service. Id. The record is replete with evidence that the rates requested by the Company in this case, if approved, would be the highest water rates in South Carolina. Further, a plethora of evidence was presented on the poor water quality of the Company's water. The customer testimony noted problems such as low pressure, staining of appliances and clothes, a "Clorox" taste, "dirty" water, an unpleasant odor to the water, undrinkable water, a slick feel to the water, and high iron content. As a result of these factors, many customers were forced to drink bottled water and use in-home filters to make the water more suitable to their needs. Several customers complained also of poor service given by the Company. The Commission believes that this evidence is substantial

evidence in support of the .47% operating margin granted by the Commission in this case. The Commission, therefore, believes that the first ground of Heater's Petition must be denied.

Second, Heater states that the Commission erred by refusing to apply the requested rate base methodology for setting rates in this proceeding. The Commission believes that the choice between rate base methodology and operating margin is a matter solely within the Commission's discretion. In exercising its power to supervise and regulate the service of every public utility in the state, the Public Service Commission must be allowed the discretion of imposing reasonable requirements on its jurisdictional utilities to ensure that adequate and proper service will be rendered to the customers of the utility companies. Patton v. South Carolina Public Service Commission, 280 S.C. 288, 312 S.E.2d 257 (1984). In fulfilling its obligation to balance the interests of a public utility in the often competing interests of intervenors in a complex rate proceeding, the Public Service Commission is empowered to utilize its discretion in expertise in setting "just and reasonable rates." Parker v. South Carolina Public Service Commission, 281 S.C. 22, 314 S.E.2d 148 (1984). As the Company states in its Petition for Rehearing and Reconsideration of Order No. 92-1062 at 7, it is not the method employed but the result which is important. The result in this case is just and equitable upon the consideration of the quality of service provided by the Company to its customers and the need for continuance of the provision of adequate service, as well as the impact of the

increase on those customers receiving service and the need for conservation of water resources.

Further, the Company cites no provision of law which requires the Commission to use rate of return on rate base methodology over operating margin to determine a proper rate of return. The use of the operating margin method is therefore peculiarly within the Commission's discretion and in the absence of evidence to the contrary is the appropriate method for establishing a rate of return for a company such as Heater. Therefore, the Company's second ground is rejected.

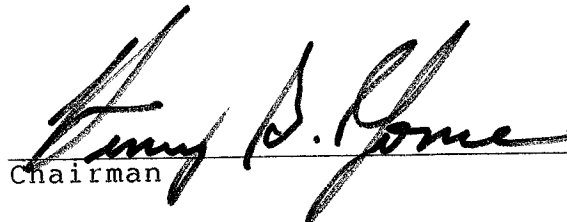
Third, the Company alleges that the Commission erred in denying the entire rate increase in all thirty-four service areas based upon the testimony of fourteen customers and Representative Cromer. Again, the low quality of the service provided by the Company was of major concern to the Commission. The Commission believes that statements concerning "Clorox-like" water which stains clothes and appliances empowers the Commission to exercise its discretion to issue a ruling on the Company's rates and service overall. A balancing of the interests of the Company and the customers in this case mandated a rejection of the Company's proposed rate increase. Therefore, the third ground of the Company's Petition is also rejected.

IT IS THEREFORE ORDERED THAT:


1. The Petition for Rehearing and Reconsideration of Order No. 92-1062 filed by Heater Utilities, Inc. is hereby denied.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)